

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO.: _____

SGT. THOMAS HANNA, MATTHEW FREY,)
CORVIAS MILITARY LIVING, LLC and)
CORVIAS GROUP, LLC,)

Plaintiffs,)

vs.)

AMAZON.COM, INC.,)

Defendants.)
_____)

COMPLAINT
(JURY TRIAL DEMANDED)

Plaintiffs, Sgt. Thomas Hanna, Matthew Frey, Corvias Military Living LLC and Corvias Group, LLC, by their attorneys, respectfully assert their causes of action against the defendant Amazon.Com, Inc., and allege as follows:

THE PARTIES

1. Plaintiff Sgt. Thomas Hanna (“Sgt. Hanna”) at all relevant times herein was a natural person and citizen and resident of North Carolina, who at all times relevant to the allegations contained herein resided at a duplex located at house located at 28 Mt. Mitchell Place, Cameron, North Carolina 28326.

2. Plaintiff Sgt. Matthew Frey (“Sgt. Frey”) at all relevant times herein was a natural person and citizen and resident of Cameron, North Carolina, who at all times relevant to the allegations contained herein resided at a duplex located at house located at 30 Mt. Mitchell Place, Cameron, North Carolina 28326.

3. Plaintiff Corvias Military Living, LLC (“Corvias”) is a limited liability company organized and existing under the laws of the State of Rhode Island, with its principal place of

business located in East Greenwich Rhode Island, and at all times relevant to the allegations contained herein, was the owner of the real property (the “Duplex”) located at 28 Mt. Mitchell Place, Cameron, North Carolina 28326.

4. Plaintiff Corvias Group, LLC (“Corvias Group”) is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business located in East Greenwich, Rhode Island, and at all times relevant to the allegations contained herein, was providing housing and other services for military servicemen.

5. Defendant Amazon.Com, Inc. (“Amazon”) is a company organized and existing under the laws of the State of Washington, with its principal place of business located in Seattle Washington. At all times relevant to the allegations contained herein, Amazon was engaged in the business of selling and distributing replacement laptop battery packs in the State of North Carolina. Amazon can be served with process by serving its registered agent at Corporation Service Company, 300 Deschutes Way, SW, Suite 304, Tumwater, Washington 98501.

JURISDICTION AND VENUE

6. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §1332, because the matter in controversy exceeds \$75,000.00, exclusive of interest and costs, and is between citizens of different states in that the citizenship of plaintiff is completely diverse from the citizenships of defendants.

7. Venue is appropriate in the United States District Court for the Middle District of North Carolina pursuant to 28 U.S.C. §1391, in that a substantial part of the events and acts and omissions causing the loss which is the subject of this action occurred in the Middle District of North Carolina.

FACTUAL ALLEGATIONS

8. Prior to July 23, 2014, plaintiff Sgt. Hanna ordered and purchased a replacement battery pack for a laptop computer, identified as ASUS A32-V150 Replacement Notebook/Laptop Battery 4800 mh (Replacement) (hereinafter referred to as “the Battery”), from defendant Amazon’s web site.

9. The Battery was shipped by Amazon.

10. The Battery was packaged by Defendant Amazon’s employees in a box marked with Defendant Amazon’s name.

11. Plaintiff Sgt. Hanna paid the purchase price to Amazon.

12. The Battery was manufactured by an unknown company located in the People’s Republic of China.

13. Defendant Amazon sold and delivered the Battery ordered by Sgt. Hanna to his home identified as the Duplex.

14. On or about July 23, 2014, a fire occurred at the Duplex, resulting in substantial damage to plaintiffs’ real and personal property.

15. The fire was caused by the catastrophic malfunction and failure of the Battery, which was defective and unreasonably dangerous at the time it was manufactured and sold to Sgt. Hanna.

16. As a direct and proximate result of the foregoing fire and the negligent acts and omissions of the defendants, plaintiffs incurred substantial damage to their real and personal property in an amount in excess of Seventy-Five Thousand and 00/100 Dollars (\$75,000.00).

COUNT I – NC PRODUCTS LIABILITY ACT
(Plaintiffs v. Amazon)

17. Plaintiffs reallege Paragraphs 1 through 16 and incorporate the same herein by reference.

18. Defendant Amazon is the seller of the Battery and as such is subject to the provisions of the North Carolina Products Liability Act, N.C.G.S.A. § 99 B-1, et seq.

19. The Battery was unreasonably dangerous by design, manufacture and the warnings that accompanied the product.

20. It was reasonably foreseeable to the Defendant that purchasers of the Battery would use this product in the way that it was used by Sgt. Hanna and his family.

21. As a direct and proximate result of the defective condition of the Battery, a fire started and damaged the Plaintiffs' real and personal property.

22. Even though the Battery was sold by defendant Amazon in a sealed container, defendant is liable to the plaintiffs for selling a defective product as described above because the defendant sells products such as the subject Battery manufactured by unknown manufacturers residing in a foreign country over whom this Court cannot obtain jurisdiction.

COUNT II – NEGLIGENCE
(Plaintiffs v. Amazon)

23. Plaintiffs reallege Paragraphs 1 through 16 and incorporate the same herein by reference.

24. Defendant Amazon owed a duty to plaintiffs to exercise reasonable care in the selling and delivery of the Battery to plaintiff Sgt. Hanna.

25. Defendant Amazon, by reason of the conduct of its agents, employees and representatives, breached its duty of care by committing one or more of the following negligent acts or omissions including, but not limited to, the following:

- a. Defendant failed to deliver the Battery ordered and purchased by plaintiff Sgt. Hanna, instead substituting a defective and unreasonably dangerous battery for delivery to the plaintiff;
- b. Defendant failed to warn plaintiffs of a potential defect with the Battery that could result in a fire, knowing that the Battery constituted a significant fire hazard;
- c. Defendant failed to act as a reasonably prudent distributor, seller and fulfillment center of laptop replacement batteries; and
- d. Defendant performed such other and further negligent acts and omissions that may be disclosed during discovery.

26. The fire would not have occurred had defendant Amazon acted reasonably and in a non-negligent manner in fulfilling the plaintiff's order for the Battery.

27. As a direct and proximate result of defendant's negligent conduct, plaintiffs sustained substantial damage and destruction to their real and personal property. As a result, plaintiffs suffered damages in an amount in excess of \$75,000.00.

COUNT III – BREACH OF EXPRESS WARRANTY
(Plaintiffs v. Amazon)

28. Plaintiffs reallege Paragraphs 1 through 16 and incorporate the same herein by reference.

29. Defendant Amazon caused to be placed into the stream of commerce the Battery, which Sgt. Hanna purchased. Sgt. Hanna relied on this defendant's express warranties and the representations that the Battery was safe for its intended use when they purchased the Battery. This defendant breached its express warranties in that the Battery was unsafe, unfit for its intended use, and was defective and unreasonably dangerous.

30. As a direct and proximate result of Amazon's breach of express warranties, the plaintiffs sustained damages in an amount in excess of \$75,000.00.

COUNT IV – BREACH OF IMPLIED WARRANTIES
(Plaintiffs v. Amazon)

31. Plaintiffs reallege Paragraphs 1 through 16 and incorporate the same herein by reference.

32. Defendant Amazon caused to be placed into the stream of commerce the Battery, which Sgt. Hanna purchased. Sgt. Hanna relied on this defendant's express warranties and the representations that the Battery was safe for its intended use when they purchased the Battery. This defendant breached its implied warranties of fitness for a particular purpose and merchantability in that the Battery was unsafe, unfit for its intended use, and was defective and unreasonably dangerous.

33. As a direct and proximate result of Amazon's breach of express warranties, the plaintiffs sustained damages in an amount in excess of \$75,000.00.

WHEREFORE, plaintiffs seek relief as follows:

1. Judgment in an amount in excess of \$75,000 according to the proof at trial along with interest and costs as permitted by law;
2. Trial by jury; and
3. Any and all other relief to which Plaintiffs may be entitled.

This 13th day of January, 2017.

SALTZ MATKOV P.C.

/s/ Albert S. Nalibotsky

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